

Serial Number 10/766616
Examiner Nelson, AU 3379

Comment and Argument

The Examiner has rejected claims 1-5. Claims 1 and 3 have been amended, claims 6 and 7 have been withdrawn, claims 8-11 have been added and claims 1-5 and 8-11 remain. Please find a credit card transmittal attached hereto to pay the \$200.00 fee for the added independent claim 8 and dependent claims 9-11.

Please withdraw claims 6 and 7; applicant reserves the right to file a continuation, divisional, CIP or other application setting forth the subject matter embodied therein.

Section 112 Claims Rejections

The Examiner cited rejections to the , citing specific form and structure issues. Said claims have been amended to correct these issues. The undersigned appreciates the Examiners careful review of the claims and suggestions for correcting same.

35 USC 102 Claims Rejections

The claims as amended are clearly novel, distinguishable and non-obvious in light of Heft, and reconsideration is thereby requested.

Heft teaches a set of skids having slots formed along their length for stacking the units upon one another.

The present claimed invention does not have slots formed along their lengths, but rather recesses formed at opposing ends defining an inner edge formed to rest upon the bin holding area of the bin upon which it is stacked, the recess formed to interface with the upper edges of the cargo bin upon which it is stacked upon. See Claim 1 and Figures 1B-1D.

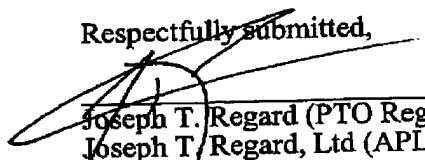
Under Brown & Williamson Tobacco Corp v. Phillip Morris, Inc 229 F3d 1120, 56 USPQ2d 1456 (fed Cir 2000), a showing of obviousness requires a motivation or suggestion to combine or modify prior art references, coupled with a reasonable expectation of success.

The initial burden is on the examiner to make a rebuttable prima facie case of obviousness based upon the prior art. In re Rinehart 531 F2d 1048, 189 USPQ 143 (CCPA 1976). The applicant for a patent has no burden to show proof of non-obviousness until a prima facie case has been made by the examiner. Heft, alone or in combination with Frazier et al does not teach, suggest, or otherwise contemplate the unique claimed features of the present invention, as discussed above, nor has there a showing of motivation or suggestion of combination of these references to teach the invention as claimed in the present application

It is now believed that the claims are in condition for allowance, and applicant thereby respectfully requests same.

If additional issues remain, and the Examiner is of the opinion that same could be resolved by telephone or examiner amendment, the undersigned respectfully requests same at (985) 845-0000.

Respectfully submitted,



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